उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(23)

मामला क्रमांक M.A (C) 983 सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

M.A. (C) No.983/2007

APPELLANTS/ CLAIMANTS	1.	Smt. Bimla Bai, wd/o Late Suresh Kumar, Aged about 39 years, cast 'Kalar'
	2.	Raju Lal, S/o Late Suresh Kumar aged about 16 years
	3.	Sukheet Ram Late Suresh Kumar aged about 14 years.
	4.	Krishna Kumar s/o Late Suresh Kumar, aged about 10 years
	5.	Pradeep Kumar s/o Late Suresh Kumar, aged about 6 years.
	6.	Smt. Shavana Bai, w/o Patiram aged about 60 years
	7.	Patiram s/o Sunher Sinha, aged about 65 years, Cast 'Kalar' Minor appellant No.2 to 5 represented by their natural guardian and mother Smt. Bimla Bai, w/o Late Suresh Kumar appellant No.1. All R/o village Matewa, Post Gabdi, Police Station Arjunda, District Durg(CG)

VERSUS

RESPONDENTS	1.	Ashok Kumar Sahu s/o Gambhir Sahu, aged about 35 years, R/o village Matewa Post Gabdi, Police Station Arjunda, District Durg(CG) (Driver of vehicle Swaraj Majda bearing registered No. CG 07 ZB 0770)
	2.	Devendra Kumar Sahu, S/o Prabhudatt Sahu, R/o village

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश –2–		कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
			Bhalukakena, Thana Arjunda District Durg(CG), (Owner of vehicle Swaraj Majda bearing registered No. CG 07 ZB 0770)
		3.	The Oriental Insurance Company Limited, through Divisional Manager, The Oriental Insurance Company Limited, Kamthi line, Rajnandgaon(CG) (Insurer of the vehicle Swaraj Majda bearing Reg. No.CG 07 ZB 0770)

Appeal under Section 173 of Motor Vehicle Act, 1988

Appearance:

Shri Sameer Singh, counsel for the appellants.
Shri Sudhir Agrawal, counsel for respondent No.3/O.I.C.

DB.: HON'BLE SHRI L.C. BHADOO, J. &
HON'BLE SHRI SUNIL KUMAR SINHA, J.

ORAL ORDER
(11.09.2007)

L.C. Bhadoo, J:

Heard.

The appellants have preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 for enhancement of the compensation amount. The only grievance raised by learned counsel for the appellants is that the deceased namely-Suresh Kumar, at the time of his death, left behind widow, mother, father and 4 minor children i.e. 7 dependents.

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

The learned Tribunal has deducted 1/3rd out of the income of the deceased as his personal expenses, which is on the higher side. Looking to the number of family members, the learned tribunal ought to have deducted 1/5th of the income as personal expenses of the deceased.

On the other hand, Shri Agrawal, representing the Oriental Insurance Company, argued that the learned tribunal has rightly deducted 1/3rd from the annual income of the deceased as his personal expenses.

Having heard learned counsel for the parties, we have perused the record.

Learned tribunal has assessed Rs.31,500/- as yearly income of the deceased and thereafter has deducted 1/3rd of that amount as personal expenses of the deceased.

It is an admitted position that the deceased Suresh Kumar left behind widow, mother, father and 4 minor children.

Looking to the ~~strength~~ Number of the family members of the deceased, it is expected that the deceased, at the most, was spending 1/4th of the income on his personal expenses; therefore, the tribunal has wrongly deducted 1/3rd of the income as personal expenses of the deceased.

In our opinion, 1/4th of the income spent by the deceased on his personal expenses can be said to be just and reasonable. If the award is modified in that manner, then out of the total income of the deceased, the tribunal after assessing the annual income of the deceased as Rs.31,500/-, deducted the amount of

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

1/3rd of the income i.e. Rs.10,500/-, as his personal expenses, whereas, the tribunal ought to have deducted 1/4th, looking to the number of family members of the deceased i.e. Rs.7,825/-. After deducting the said amount from the yearly income of the deceased, it would come to Rs.23,625/- and applying the multiplier of 16, which has been applied on the total income, it would come to Rs.3,78,000/-, out of which, Rs.3,36,000/- has already been awarded by the tribunal, thereby the claimants are entitled for Rs.42,000/-, in addition to what has been awarded by the tribunal as the loss of dependency to the claimants.

The appeal is partly allowed and the award impugned dated 30.12.2006, passed by the 10th Additional Motor Accident Claims Tribunal(FTC) Durg, is modified to the extent that the claimants shall be entitled to Rs.42,000/- more, in addition to the award passed by the tribunal. The claimants shall be entitled to 6% interest on this amount also from the date of filing of the claims petition.

Sd/-
L.C. Bhadoo
Judge

Sd/-
Sunil Kumar Sinha
Judge

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GRPRJ — FS/246— 2/2007 — 50,000.